IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 18TH JANUARY 2007 / 28TH POUSHA 1928

WP(C).No. 1750 of 2007(G)

PETITIONERS:

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1. HONEY GEORGE, EDATHALA HOUSE,
NAULEKTTU P.O. KORATTY, THRISSUR DISTRICT.

2. SHINY SEBASTIAN, KAVANTHOLIL HOUSE,
KANAKKARY, PATTITHANAM P.O. KOTTAYAM DISTRICT.

BY ADV. SRI.T.O.XAVIER
SRI.K.P.RAMACHANDRAN (THIRUMARADI)

RESPONDENTS:

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1. KORATTY PANCHAYATH,
REPRESENTED BY ITS SECRETARY.

2. THE STATE OF KERALA, REPRESENTED BY
THE LOCAL ADMINISTRATION SECRETARY,
THIRUVANANTHAPURAM.

ADDL. 3. THE REGISTRAR, SUB REGISTRY OFFICE,
CHALAKUDY PO., THRISSUR DISTRICT

ADDL. 3RD RESPONDENT IMPLEADED AS PER JUDGMENT
DATED 18.1.2007 IN THE WRIT PETITION.

R2 & ADDL. R3 BY SR.GOVT.PLEADER SRI.MATHEW G.VADAKKEL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

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W.P.(C) No.1750 OF 2007 &
I.A.No.1028 of 2007

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DATED THIS THE 18TH JANUARY, 2007

J U D G M E N T

The petitioners who are Christians and whose marriage was solemnised as per Christian religious rites on 24.10.2001 have since been living together as husband and wife. Both of them are presently working in Ireland. They say that the Governmental authorities in Ireland are insisting upon the petitioners producing a marriage certificate duly attested by the civil authorities of the country where the marriage was conducted and are not prepared to rely on Ext.P1 marriage certificate issued by the St.Joseph's Church, Konoor in which petitioners' marriage was solemnised. All arrangements have been made already for the journey of the petitioners to Ireland on the 23rd instant and they are relying on Exts.P3 and P3(a) air tickets in this context. Their grievance is that the authorities here are insisting upon 30 days' notice for facilitating registration of the marriage and that such insistence is causing hardship to them since it is absolutely necessary that they should leave for Ireland on the 23rd itself.

2. Heard Sri.T.O.Xavier, learned counsel for the petitioners and

Sri.Mathew G.Vadakkel, learned Government Pleader who has taken notice on behalf of the 2nd respondent-State Government.

3. The 1st respondent in the Writ Petition is the Koratty Panchayat represented by its Secretary and the prayer in the Writ Petition is that the 1st respondent be directed to issue a marriage certificate to the petitioners within a reasonable time. My attention was drawn by the learned counsel to the judgment of C.N.Ramachandran Nair, J. in **John Roji v. Marriage Officer** (2004 (1) KLT 687) and also that of the very same learned Judge in W.P.(C) No.29313 of 2006. The judgment of J.B.Koshy, J. in **Baby v. Cochin Corporation** (2000 (1) KLT 671) was also cited before me.

4. I shall observe at the very outset that I am fairly convinced that the petitioners who are Roman Catholics of Syrian Rites belonging to the Arch Diocese of Ernakulam were duly married in accordance with religious rites on 24.10.2001 at St.Joseph's Church, Konoor which is affiliated to the above Roman Catholic Arch Diocese. Ext.P1 certificate is a genuine certificate regarding the status of the petitioners as husband and wife. But, at the same time, the Secretary of the 1st respondent-Koratty Panchayat may not be able to issue a certificate regarding registration of marriage under Sections 6, 7, 8

and 9 of the Births, Deaths and Marriage Registration Act, 1886 since rules in that regard are yet to be issued by the Government. But, at the same time, as directed by this Court in **Baby v. Cochin Corporation** (supra), being a local authority having jurisdiction over the area to which the petitioners belong and in which the marriage of the petitioners was solemnised, that authority will be justified in issuing a certificate after holding such enquiry as it deems fit, if so satisfied that the petitioners are duly married in the Church mentioned in Ext.P1 certificate.

5. I.A.No.1028 of 2007 has been filed by the petitioners for impleading the Registrar, Sub Registry Office, Chalakudy who is the marriage Registrar for the purpose of the Special Marriage Act. The I.A. will stand allowed. The Registrar, Sub Registry Office, Chalakudy P.O., Thrissur District is impleaded as additional 3rd respondent. Registry will carry out necessary corrections in the cause title.

6. It is seen that the petitioners are yet to approach either the 1st respondent or the additional 3rd respondent seeking the issuance of any marriage certificate. Since I am convinced that the petitioners have been legally married in accordance with the rites and rituals of the Christian religion and since the materials produced before me show

that they have an urgent necessity of proceeding to Ireland shortly, this Writ Petition will stand disposed of with the following directions:-

1. If the additional 3rd respondent is approached by the petitioners seeking registration of their marriage under the provisions of the Special Marriage Act or any other provision which enables him to register marriages, the additional 3rd respondent will initiate process of enquiry and complete the same in accordance with law, after undergoing all statutory formalities. But that part of the enquiry which involves the presence of the petitioners and obtainment of signature of the petitioners will be conducted on the date of production of this judgment itself so that they can be relieved. The registration of the marriage need be performed and issuance of certificate need be made only after the statutory formalities are completed.

2. The 1st respondent will hold necessary enquiries regarding the genuineness of the facts stated in Ext.P1 and if those enquiries reveal that the petitioners were married at St.Joseph's Church, Konoor, Nalukettu P.O., Koratty on 24.10.2001 in accordance with the rites and rituals of the Roman Catholic Church, the 1st respondent may issue a certificate to that effect (regarding the genuineness of Ext.P1 certificate). The 1st respondent can confine the enquiries to the Vicar

of the Church, any one person who attended the marriage and the Marriage Register maintained by the Church. Certificate as directed above will be issued by the 1st respondent at least by the evening of 22nd January, 2007.

(PIUS C. KURIAKOSE, JUDGE)

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